



(BILLING CODE: 3510-DS-P)

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Final Rescission of Antidumping Duty New Shipper Review of Shijiazhuang Goodman Trading Co., Ltd.

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On November 8, 2013, the Department of Commerce (the Department) published its preliminary results for the new shipper review (NSR) of the antidumping duty order on fresh garlic from the People's Republic of China (the PRC) covering the period of review (POR) of November 1, 2011, through October 31, 2012, for Shijiazhuang Goodman Trading Co., Ltd. (Goodman).¹ Based on our analysis of comments received subsequent to the Preliminary Results, the Department now finds that Goodman's sales were not bona fide. As a result, the Department is rescinding this NSR.

DATES: EFFECTIVE DATE: (INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.)

FOR FURTHER INFORMATION CONTACT: Nicholas Czajkowski or Gene Calvert, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-1395 or (202) 482-3586, respectively.

¹ See Fresh Garlic From the People's Republic of China: Preliminary Results of New Shipper Review of Shijiazhuang Goodman Trading Co., Ltd., 78 FR 67112 (November 8, 2013) (Preliminary Results).

SUPPLEMENTARY INFORMATION:

Background

On November 8, 2013, the Department published the Preliminary Results. Between January 13, 2014, and January 22, 2014, Petitioners² and Goodman each submitted case and rebuttal briefs. On January 29, 2014, the Department conducted a hearing regarding this NSR.³ As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.⁴ Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. As a result, the revised deadline for the final results of this NSR is now April 3, 2014.

Scope of the Order

The products covered by the order are all grades of garlic, whole or separated into constituent cloves. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 0703.20.0000, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, and 2005.99.9700. A full description of the scope of the order is contained in the Issues and Decision Memorandum.⁵ Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description is dispositive.

² Petitioners are the Fresh Garlic Producers Association and its individual members: Christopher Ranch LLC; The Garlic Company; Valley Garlic; and Vessey and Company, Inc. (collectively, Petitioners).

³ See “Public Hearing In The Matter of: the Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People’s Republic of China,” (January 29, 2014).

⁴ See the Department Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” (October 18, 2013).

⁵ See the Department Memorandum, “Decision Memorandum for the Final Results in the Antidumping Duty New Shipper Review of Fresh Garlic from the People’s Republic of China: Shijiazhuang Goodman Trading Co., Ltd.,” (April 3, 2014) (Issues and Decision Memorandum).

Final Rescission of New Shipper Review

Due to the totality of circumstances, including price, quantity, and concerns regarding the relationship with another garlic exporter located in the PRC, as detailed in the Goodman Final Analysis Memorandum, the Department finds that Goodman's sales are not bona fide.⁶

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum, which is dated concurrently and is hereby adopted by this notice. A list of the issues raised in the briefs and addressed in the Issues and Decision Memorandum is appended to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's centralized electronic service system (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Department's Central Records Unit, room 7064 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Cash Deposit Requirements

Effective upon publication of the final rescission of the NSR of Goodman, the Department will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise by Goodman. Cash deposits will be required for exports of subject merchandise by Goodman entered, or withdrawn from warehouse, for consumption on or after the publication date at the per-unit PRC-wide rate, \$4.71 per kilogram.

⁶ See Department Memorandum, "New Shipper Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China: Analysis of Shijiazhuang Goodman Trading Co. Ltd.," (April 3, 2014) (Goodman Final Analysis Memorandum).

Assessment Instructions

Both the PRC separate rate and the PRC entity are under review in the 2011-2012 administrative review, which is currently being conducted,⁷ and the POR of the administrative review coincides with the POR of this NSR. Goodman has filed a separate rate application in the concurrent administrative review indicating that it is independent of Chinese government control. Therefore, we will issue liquidation instructions for Goodman's entries upon completion of the administrative review. In the final results of the administrative review, the Department will determine whether Goodman qualifies for the PRC separate rate or the PRC-wide rate. Upon completion of the administrative review, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries for Goodman at the appropriate rate.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary of Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Return of Destruction of Proprietary Information

This notice serves as a reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

⁷ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 77 FR 77017 (December 31, 2012).

This notice is issued and published in accordance with sections 751(a)(2)(B) and 777(i) of the Act, and 19 CFR 351.214.

Dated: April 3, 2014.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Appendix – List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Issues
 - Comment 1: Whether Goodman Qualifies for a New Shipper Rate
 - Comment 2: Whether Goodman's Sales are Bona Fide
 - Comment 3: Whether the Department Should Change the Surrogate Country from the Philippines to Thailand
 - Comment 4: Whether the Department Should Use the Month Corresponding to Goodman's Sales to Calculate Surrogate Values for Garlic
 - Comment 5: Whether the Department Should Rely on the Import Data Used in the Preliminary Results
 - Comment 6: Whether the Department Should Use Farm Gate Prices or Wholesale Prices
 - Comment 7: Whether the Department Should Continue to Rely on the Financial Statements Used in the Preliminary Results.
 - Comment 8: Whether the Department Should Use MERALCO's Tariff to Value Electricity
 - Comment 9: Whether the Department Should Include the Transportation Expense in the Overhead Ratio
 - Comment 10: Whether Goodman is Entitled to a Separate Rate in this Proceeding
 - Comment 11: Whether the PRC-Wide Entity Rate is Reliable and Relevant
- V. Recommendation

